

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 3:05CR500–HEH
)	
LEROY N. INGRAM,)	
)	
Petitioner.)	

**MEMORANDUM OPINION
(Denying 28 U.S.C. § 2255 Motion)**

Petitioner, a federal inmate proceeding *pro se*, submitted this motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. Petitioner asserted that, in light of the Supreme Court’s recent decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), his enhanced sentence under the United States Sentencing Guidelines (“USSG”) as a career offender is unconstitutional.¹ “Recently, the Supreme Court concluded that the Guidelines are not subject to a vagueness challenge under the Due Process Clause. . . . *Johnson*’s vagueness holding does not apply to the residual clause in [USSG] § 4B1.2(a)(2).” *United States v. Lee*, 855 F.3d 244, 246–47 (4th Cir. 2017) (citation

¹ As the Supreme Court has noted,

[u]nder the Armed Career Criminal Act [“ACCA”] of 1984, a defendant convicted of being a felon in possession of a firearm faces more severe punishment if he has three or more previous convictions for a “violent felony,” a term defined to include any felony that “*involves conduct that presents a serious potential risk of physical injury to another.*”

Johnson, 135 S. Ct. at 2555 (emphasis added) (quoting 18 U.S.C. § 924(e)(2)(B)). This part of the definition of violent felony “ha[s] come to be known as the Act’s residual clause.” *Id.* at 2556. The *Johnson* Court held “that imposing an increased sentence under the residual clause of the [ACCA] violates the Constitution’s guarantee of due process.” *Id.* at 2563.

omitted). Thus, Petitioner's claim lacks merit. Accordingly, the Government's Motion to Dismiss (ECF No. 100) will be granted. The § 2255 Motion (ECF No. 91) will be denied. The action will be dismissed, and the Court will deny a certificate of appealability.

Further, Petitioner has twice moved for appointment of counsel in his § 2255 proceeding (ECF Nos. 86, 98). However, as this action will be dismissed for lack of merit, Petitioner's Motions to Appoint Counsel (ECF No. 86, 98) will be denied.

An appropriate Order shall issue.



/s/

HENRY E. HUDSON
UNITED STATES DISTRICT JUDGE

Date: **June 13, 2017**
Richmond, Virginia